
UTAH LABOR COMMISSION

MARC MATHESON,
Petitioner,

vs.

IHC,
Respondent.

ORDER AFFIRMING
ALJ'S DECISION

Case No. 04-0748

Marc Matheson asks the Utah Labor Commission to review Administrative Law Judge Lima's calculation of the benefits awarded to Mr. Matheson under the Utah Workers' Compensation Act, Title 34A, Chapter 2, Utah Code Annotated.

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Annotated § 63G-4-301 and § 34A-2-801(3).

BACKGROUND AND ISSUE PRESENTED

Mr. Matheson claims workers' compensation benefits from IHC for a thoracic back strain he sustained during his employment from October 2003 through January 2004. Judge Lima held an evidentiary hearing and awarded benefits.

In his motion for review, Mr. Matheson argues that the evidence IHC provided at the hearing regarding his average weekly salary was incomplete and, therefore, the amount Judge Lima awarded for temporary total disability is incorrect.¹ Mr. Matheson submits alternate records to support his argument.

FINDINGS OF FACT

The Commission adopts Judge Lima's findings of fact. Additional facts material to Mr. Matheson's motion for review are as follows:

Mr. Matheson injured his back during his employment with IHC. At the evidentiary hearing, IHC submitted payroll records into evidence to represent Mr. Matheson's average salary. Mr. Matheson did not object to the submission and, in fact, verbally accepted these as accurate. He also conceded that his hourly rate of pay was \$9.52. Thereafter, Judge Lima awarded Mr. Matheson temporary total disability at \$141.00 per week.

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DISCUSSION AND CONCLUSION OF LAW

¹ Mr. Matheson also questioned Judge Lima's award for medical treatment. Judge Lima has already responded to this concern by letter, hence, this decision does not address that issue.

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The only question at issue in the motion for review is whether the Commission should consider new evidence for computing Mr. Matheson's award for total temporary disability. According to Rule R602-2-5 of the Commission's rules, "[t]he petitioner shall appear at the hearing prepared to outline the benefits sought" R602-2-7 further provides that "[p]arties are expected to be prepared to present their evidence on the date the hearing is scheduled"

As noted above, at the hearing Mr. Matheson accepted IHC's submissions regarding his salary as accurate. However, Mr. Matheson now submits documents to show that his salary computation is higher than what IHC represented. For purposes of adjudicative efficiency, the administrative rules place the burden on the petitioner to identify and provide evidence of what his claim for benefits are at the time of the hearing. Although the Commission may exercise discretion in reopening the record when there is good cause, Mr. Matheson has not provided an explanation for his failure to provide this information previously.

For the foregoing reasons, the Commission declines to accept Mr. Matheson's proffer of evidence that should have previously been submitted.

ORDER

The Commission affirms Judge Lima's decision. It is so ordered.

Dated this 26th day of June, 2008.

Sherrie Hayashi
Utah Labor Commissioner

NOTICE OF APPEAL RIGHTS

Any party may ask the Labor Commission to reconsider this Order. Any such request for reconsideration must be received by the Labor Commission within 20 days of the date of this order. Alternatively, any party may appeal this order to the Utah Court of Appeals by filing a petition for review with the court. Any such petition for review must be received by the court within 30 days of the date of this order.